

House File 5

HOUSE FILE _____
BY PETTENGILL

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring all payments for prepaid cemetery and funeral
2 merchandise, and funeral services to be placed in trust or
3 secured by a surety bond.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1577YH 83
6 av/nh/8

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1 1 Section 1. Section 523A.201, subsections 2 and 3, Code
1 2 2009, are amended to read as follows:
1 3 2. If a seller agrees to furnish cemetery merchandise,
1 4 funeral merchandise, funeral services, or a combination
1 5 thereof and performance or delivery may be more than one
1 6 hundred twenty days following the initial payment on the
1 7 account, ~~a minimum of eighty percent of all payments made~~
1 8 under the purchase agreement shall be placed and remain in
1 9 trust until the person for whose benefit the funds were paid
1 10 dies.
1 11 3. If a purchase agreement for cemetery merchandise,
1 12 funeral merchandise, funeral services, or a combination
1 13 thereof provides that payments are to be made in installments,
1 14 the seller shall deposit ~~eighty percent of each payment all~~
1 15 ~~payments made under the purchase agreement~~ in the trust fund
1 16 until the full amount required to be placed in trust has been
1 17 deposited. If the purchase agreement is financed with or sold
1 18 to a financial institution, the purchase agreement shall be
1 19 considered paid in full and the trust requirements shall be
1 20 satisfied within fifteen days after the seller receives funds
1 21 from the financial institution.
1 22 Sec. 2. Section 523A.201, subsection 5, Code 2009, is
1 23 amended by striking the subsection.
1 24 Sec. 3. Section 523A.405, subsection 8, Code 2009, is
1 25 amended to read as follows:
1 26 8. The amount of the surety bond shall equal ~~eighty~~
1 27 ~~percent the amount~~ of the payments received pursuant to
1 28 purchase agreements, or the applicable portion thereof, for
1 29 cemetery merchandise, funeral merchandise, funeral services,
1 30 or a combination thereof, and the amount needed to adjust the
1 31 amount of the surety bond for inflation as set by the
1 32 commissioner based on the consumer price index. The seller
1 33 shall review the amount of the surety bond no less than
1 34 annually and shall increase the bond as necessary to reflect
1 35 additional payments. The amount needed to adjust for
2 1 inflation shall be added annually to the surety bond during
2 2 the first quarter of the seller's fiscal year.
2 3 Sec. 4. Section 523A.601, subsection 6, paragraph a, Code
2 4 2009, is amended to read as follows:
2 5 a. A purchase agreement that is funded by a trust shall
2 6 include a conspicuous statement in language substantially
2 7 similar to the following language:
2 8 "For your prearranged funeral agreement, we will deposit
2 9 ~~not less than eighty percent all~~ of your payments in trust at
2 10 (name of financial institution), (street address), (city),
2 11 (state) (zip code) within fifteen days following receipt of
2 12 the funds. For your protection, you will be notified within
2 13 sixty days from the date of deposit ~~from by~~ the financial
2 14 institution, if acting as a trustee of trust funds under this
2 15 chapter, to confirm that the deposit of these funds has been
2 16 made establishing a trust fund as required by law. If you do
2 17 not receive this notification, you may contact the Iowa
2 18 insurance division for assistance by calling the insurance
2 19 division at (telephone number) or by mail at (street address),

2 20 (city), Iowa (zip code), or you may contact the financial
2 21 institution by calling the financial institution at (telephone
2 22 number) or by mail at the address indicated above."
2 23 EXPLANATION
2 24 This bill requires that all payments made pursuant to a
2 25 purchase agreement for cemetery merchandise, funeral
2 26 merchandise, funeral services, or a combination thereof, where
2 27 performance or delivery under the agreement may be more than
2 28 120 days following initial payment on the account, must be
2 29 placed in trust or secured by a surety bond in that amount.
2 30 Currently, only 80 percent of the amount of such payments is
2 31 required to be placed in trust or secured by a surety bond.
2 32 LSB 1577YH 83
2 33 av/nh/8.1